

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

JOSE L. RODRIGUEZ-CRESPO,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

Civil No. 09-1642 (ADC)

ORDER

Petitioner, José L. Rodríguez-Crespo (“petitioner”), filed a Motion to Vacate, Set Aside or Correct Sentence pursuant to 28 U.S.C. § 2255 (“Section 2255”), accompanied by a Memorandum of Law in support thereof (“2255 motion”), on July 10, 2009. **Docket No. 1** Petitioner seeks post-conviction relief on the basis that he received ineffective assistance of counsel. Respondent opposed said motion and sought to have the petition dismissed.

Docket No. 2. On March 17, 2010, the court referred the 2255 motion to Magistrate-Judge Camille Vélez-Rivé (“Magistrate-Judge”). **Docket No. 6.** On April 5, 2010, the Magistrate-Judge issued a Report and Recommendation (“R & R”) which recommended the dismissal of petitioner’s 2255 motion. **Docket No. 7.** Petitioner did not object or otherwise oppose the R & R.

I. Standard of Review for an Unopposed Report and Recommendation

A district court may refer pending motions to a magistrate-judge for a report and recommendation. *See* 28 U.S.C. § 636(b)(1)(B); Fed. R. Civ. P. 72(b); Loc. Cv. R. 72(a). Any

party adversely affected by the recommendation issued may file written objections within ten (10) days of being served with the report and recommendation. *See* 28 U.S.C. § 636(b)(1). A party that files a timely objection is entitled to a *de novo* determination of “those portions of the report or specified proposed findings or recommendations to which specific objection is made.” *Sylva v. Culebra Dive Shop*, 389 F. Supp. 2d 189, 191-92 (D.P.R. 2005) (citing *United States v. Raddatz*, 447 U.S. 667, 673 (1980)).

“Absent objection, ... [a] district court ha[s] a right to assume that [the affected party] agree[s] to the magistrate’s recommendation.” *López- Mulero v. Valez-Colón*, 490 F. Supp. 2d 214, 217 -218 (D.P.R. 2007) (citing *Templeman v. Chris Craft Corp.*, 770 F.2d 245, 247 (1st Cir. 1985), *cert. denied*, 474 U.S. 1021 (1985). Moreover, in conducting its review of an unopposed R & R, the court “needs only [to] satisfy itself by ascertaining that there is no ‘ plain error’ on the face of the record.” *López-Mulero*, 490 F. Supp. 2d at 218.

II. Conclusion

After careful examination of the record and the unopposed R & R, the court hereby **ADOPTS** the R & R in full. As a result, petitioner’s 2255 motion (**Docket No. 1**) is dismissed.

SO ORDERED.

At San Juan, Puerto Rico, on this 13th day of August, 2010.

S/AIDA M. DELGADO-COLÓN
United States District Judge